

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

JOSEPH CHIPPS,

Plaintiff,

v.

No. CV 20-794 JB/CG

KILOLO KIJAKAZI,<sup>1</sup>  
Commissioner of the  
Social Security Administration,

Defendant.

**ORDER GRANTING STIPULATED MOTION TO AWARD ATTORNEY FEES  
UNDER THE EQUAL ACCESS TO JUSTICE ACT**

**THIS MATTER** is before the Court on the parties' *Stipulated Motion for Award of Attorney Fees Under the Equal Access to Justice Act* (the "Motion"), (Doc. 39), filed January 19, 2022. In the Motion, the parties indicate they have agreed to award Mr. Chipps attorney fees in the amount of \$3,649.00. (Doc. 39 at 1). Further, the parties agree that "[p]ayment of this amount shall constitute a complete release from and bar to any and all claims Plaintiff may have relating to [the Equal Access to Justice Act ("EAJA")] fees in connection with this action." *Id.* The Court, having reviewed the Motion under EAJA, 28 U.S.C. § 2412, finds the Motion is well-taken and shall be granted.

**IT IS THEREFORE ORDERED** that Plaintiff be awarded \$3,649.00 in attorney fees pursuant to EAJA, 28 U.S.C. § 2412, made payable to Plaintiff but mailed to Plaintiff's attorney. See *Astrue v. Ratliff*, 560 U.S. 586 (2010) (EAJA fees are paid to the prevailing party, not the attorney).

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<sup>1</sup> Kilolo Kijakazi was appointed Acting Commissioner of the Social Security Administration on July 9, 2021.

**IT IS FURTHER ORDERED** that if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

**IT IS SO ORDERED.**



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THE HONORABLE CARMEN E. GARZA  
CHIEF UNITED STATES MAGISTRATE JUDGE